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*Attorneys for Defendant Teamsters Local 631 Security
Fund for Southern Nevada*

UNITED STATES DISTRICT COURT

DISTRICT OF NEVADA

HARRIS LAW FIRM, LLP, a Nevada limited liability
partnership, dba RICHARD HARRIS LAW FIRM,

Plaintiff,

v.

NAILA LYNN MARTINEZ, an individual; A&M
CHIROPRACTIC WELLNESS CENTER, LLC, a
Nevada limited liability company, AARGON
AGENCY, INC., a Nevada corporation dba AARGON
COLLECTION AGENCY; APEX MEDICAL
CENTER, a Nevada corporation; CANYON
MEDICAL BILLING, LLC, a Nevada limited liability
company; ANDREW M. CASH, M.D., P.C., a Nevada
Professional Corporation dba DESERT INSTITUTE
OF SPINE CARE; ELLIS, BANDT, BIRKIN,
KOLLINS, & WONG, PROF. CORP., a Nevada
Professional Corporation dba DESERT
RADIOLOGISTS; ENRICO FAZZINI, M.D., an
individual; DANIEL L. BURKHEAD, M.D., LTD., a
Nevada corporation dba INNOVATIVE PAIN CARE
CENTER; WOODWARD AVE., LLC, a Nevada
limited liability company dba INNOVATIVE
PROCEDURAL AND SURGICAL CENTER; LAS
VEGAS PHARMACY, INC. a Nevada corporation;
MD SPINE SOLUTIONS, LLC, a California limited
liability company dba MD LABS; PLUSFOUR, INC.,
a Nevada corporation; RAXO DRUGS, INC., a
Nevada corporation; SHADOW EMERGENCY
PHYSICIANS, PLLC, a Nevada professional limited

CASE NO.:

PETITION FOR REMOVAL

liability company; SMART ASSET INVESTMENTS, LLC, a Nevada limited liability company; VALLEY HEALTH SYSTEM, LLC, a Delaware limited liability company dba SPRING VALLEY HOSPITAL MEDICAL CENTER; TEAMSTERS LOCAL 631 TRUST FUNDS, an unknown entity; THEODORE M. THORP M.D., PROF CORP., a Nevada Professional Corporation; MATTHEW G. ROACH, D.C., PROF. CORP, a Nevada corporation dba WESTON CHIROPRACTIC; WILLIAM S. MUIR, M.D., LTD., a Nevada corporation dba WILLIAM MUIR, MD SPINE SURGERY; and DOES I through X, inclusive

Defendants.

Defendant Teamsters Local 631 Security Fund for Southern Nevada (the “Trust”) (incorrectly named as the Teamsters Local 631 Trust Funds) respectfully submits this Petition for Removal of the above-entitled action from the District Court of Clark County, Nevada to the United States District Court for the District of Nevada, pursuant to 28 U.S.C. §§ 1331, 1441(a), 1446 and 29 U.S.C. § 1132(e) and states as follows:

1. On September 26, 2017, Plaintiff Harris Law Firm, LLP, dba Richard Harris Law Firm, filed a Complaint in Interpleader action against the Trust in the District Court, Clark County, Nevada, entitled *Harris Law Firm, LLP, dba Richard Harris Law Firm v. Naila Lynn Martinez, et al.*, Case No. A-17-762138-C, Dept. No. IV, to, among other things, adjudicate the Trust’s subrogation, lien, repayment, trust and assignment rights stemming from health benefits paid by the Trust on Naila Lynn Martinez’s behalf as a result of injuries suffered on January 11, 2013 (“the Incident”).

2. On October 9, 2017, a third party administrator for the Trust, BeneSys, Inc., was served with a Summons and Complaint on behalf of the Trust in the above entitled action. A true copy of the Summons and Complaint are attached as Exhibits A and B.

3. At the time of the Incident, Ms. Martinez was a participant in the Trust’s health and welfare benefit plan, which provides health care benefits to its eligible participants and their eligible dependents (the “Plan”).

4. The Plan is an employee welfare benefit plan as defined under the Employee Retirement Income Security Act of 1974, as codified at 29 U.S.C. § 1001, et seq. (“ERISA”).

5. Removal of this case is proper because Congress has given exclusive jurisdiction to Federal Courts to enforce the terms of an ERISA Plan. ERISA § 502(e), as codified at 29 U.S.C. § 1132(e)(1) provides:

[T]he district courts of the United States shall have exclusive jurisdiction of civil actions under this subchapter brought by the Secretary or by a participant, beneficiary, fiduciary, or any person referred to in section 1021(f)(1) of this title.

6. ERISA § 502(f), as codified at 29 U.S.C. § 1132(f) provides:

The district courts of the United States have jurisdiction, without respect to the amount in controversy or the citizenship of the parties, to grant the relief provided for in subsection (a) of this section in any action.

7. All pleadings and papers that were filed and served on BeneSys have been attached to this Petition for Removal in accordance with 28 U.S.C. § 1446(a).

8. This Petition for Removal is filed with the District Court within thirty (30) days after service of the Complaint on the Trust.

9. The undersigned attorney certifies that he has caused a copy of the original Petition for Removal to be filed with the Clerk of the Clark County District Court, State of Nevada.

WHEREFORE, the Trust respectfully requests this Court to assume jurisdiction over the case herein, as provided by law.

Dated this 8th day of November, 2017. BROWNSTEIN HYATT FARBER SCHRECK, LLP

By: /s/ Bryce C. Loveland

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Security Fund for Southern Nevada*

CERTIFICATE OF SERVICE

Pursuant to Federal Rule of Civil Procedure 5(b), I certify that I am an employee of Brownstein Hyatt Farber Schreck, LLP and that on November 8, 2017, I served a true copy of the foregoing **PETITION FOR REMOVAL** via:

☒ a. **CM/ECF System**

☒ b. **U.S. Mail** in a sealed envelope(s) mailed with postage thereon fully prepaid upon:

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Co-Counsel for Harris Law Firm LLP dba Richard Harris Law Firm

I declare under penalty of perjury that the foregoing is true and correct.

/s/ Ebony Davis

An Employee of Brownstein Hyatt Farber Schreck, LLP